

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAMONT TARRANCE McGEE,

Plaintiff,

Case No. 1:07-cv-1216

v.

Honorable Robert J. Jonker

MARK UNER et al.,

Defendants.

ORDER OF TRANSFER

This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983. Plaintiff presently is incarcerated at the Rush City Correctional Facility in Rush City, Minnesota. Plaintiff sues the Rush City Director of Segregation Mark Uner and Investigator Steve McCarty. In his *pro se* complaint, Plaintiff alleges that Defendants subjected him to excessive force in violation of his Eighth Amendment rights. The events giving rise to Plaintiff's action occurred at Rush City Correctional Facility in Rush City, Minnesota. Rush City is within the geographical boundaries of the District of Minnesota. 28 U.S.C. § 103.

Under the revised venue statute, venue in federal-question cases lies in the district in which any defendant resides or in which a substantial part of the events or omissions giving rise to the claim occurred. 28 U.S.C. § 1391(b). Defendants are public officials serving in Minnesota, and they "reside" in that district for purposes of venue over a suit challenging official acts. *See Butterworth v. Hill*, 114 U.S. 128, 132 (1885); *O'Neill v. Battisti*, 472 F.2d 789, 791 (6th Cir. 1972). Plaintiff's allegations against these Defendants arose in Minnesota, where Defendants allegedly

committed the acts giving rise to this case. *See Leroy v. Great W. United Corp.*, 443 U.S. 173, 185-87 (1979). In these circumstances, venue is proper only in the District of Minnesota. Therefore:

IT IS ORDERED that this case be transferred to the United States District Court for the District of Minnesota pursuant to 28 U.S.C. § 1406(a). **It is noted that this Court has not decided Plaintiff's motion to proceed *in forma pauperis*, nor has the Court reviewed Plaintiff's complaint under 28 U.S.C. §§ 1915(e)(2), 1915A, or under 42 U.S.C. § 1997e(c).**

IT IS SO ORDERED.

Dated: December 12, 2007

/s/ Hugh W. Brenneman, Jr
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge